

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

FILED

OCT 20 2015

Clerk, U.S. District Court
District Of Montana
Billings

FIRST INTERSTATE BANK, a
Montana Corporation,

Plaintiff,

vs.

COLUMBIA CASUALTY
COMPANY, a wholly owned
subsidiary of CNA, BANCERVE,
INC., a Montana Corporation, and
AH&T, a Virginia company,

Defendants.

CV 15-50-BLG-SPW

ORDER

Plaintiff First Interstate Bank moved to remand this case back to state court. United States Magistrate Judge Carolyn Ostby issued Findings and Recommendations on September 15, 2015, recommending that the motion be granted and that this case be remanded. Defendant AH&T timely objected to the Findings and Recommendations and is therefore entitled to de novo review of the specified findings or recommendations to which it objects. 28 U.S.C. § 636(b)(1). Because the parties are familiar with the procedural and factual background of this case, it will not be further restated here.

AH&T's objection fails procedurally. Only Defendant Columbia Casualty Company filed a brief opposing First Interstate's Motion to Remand, and no other

defendant joined Columbia Casualty's brief. After Columbia Casualty withdrew its opposition (Doc. 36), there were no arguments opposing remand. Accordingly, Judge Ostby correctly concluded that the remaining defendants had failed to meet their "heavy burden of proving that the joinder of the in-state party was improper." *Allen v. Boeing Co.*, 784 F.3d 625, 634 (9th Cir. 2015) (quotation omitted).

IT IS HEREBY ORDERED that:

1. Judge Ostby's Findings and Recommendations (Doc. 41) are ADOPTED IN FULL.
2. First Interstate's Motion to Remand (Doc. 11) is GRANTED to the extent it seeks remand of this case to the Montana Thirteenth Judicial District Court, Yellowstone County, but DENIED to the extent that it requests costs and attorney's fees.
3. The Clerk of Court shall remand this case to the Montana Thirteenth Judicial District Court, Yellowstone County.

DATED this 20th day of October, 2015.


Susan P. Watters
SUSAN P. WATTERS
United States District Judge